



The Affordable Care Act: Employer Retaliation

The Affordable Care Act (“ACA”), the federal health care law that is sometimes called “Obamacare,” protects employees from retaliation by their employers for reporting violations of the ACA by their employer, or receiving a health insurance tax credit or cost sharing reduction to purchase health insurance.

What Kind of Activities Are Protected by the ACA?

Most employers cannot retaliate against you because you engage in protected activity such as:

- You receive a government subsidy to purchase health insurance through a state insurance exchange, even if your employer is forced to pay a penalty.
- You provide information to your employer, the federal government, or the Attorney General of New York about anything you reasonably believe is a violation of the ACA.
- You testify in any proceeding (such as a court case or to an agency) about an employer’s violation of the ACA.
- You refuse to participate in your employer’s activity that you believe is a violation of the ACA.

When Does an Action by My Employer Violate the ACA?

An employer violates the ACA if you engage in one of the activities above and your activity is a contributing factor in the employer’s decision to:

- Fire or lay you off.
- Demote you.
- Deny you overtime or a promotion.
- Intimidate or threaten you.
- Reassign you.
- Reduce your hours or pay.

Does My Immigration Status Affect This Protection?

Retaliation is illegal under the ACA regardless of your immigration status. It is possible, however, that your remedies, such as how much money you can receive, will be limited if you do not have authorization to work in the United States.

What Should I Do if My Employer Retaliates Against Me?

You must file an ACA complaint with the Occupational Safety and Health Administration (“OSHA”) within 180 days of your employer’s retaliation against you. You can do this by calling, visiting, or writing to your local OSHA office. You can find your local OSHA office by calling 1-800-321-OSHA or visiting www.osha.gov/html/RAmap.html.

How Can I Get Legal Advice about My Rights as an Employee under the ACA?

If you are a worker with additional questions, you can call the MFY Legal Services’ Workplace Justice Project Hotline at **212-417-3838** on Mondays or Tuesdays, between 2PM and 5PM.